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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/620,540  | 07/16/2003  | Eric Norland         | 354-7U1             | 8438             |
| 570   | 7590        | 11/10/2004           | EXAMINER            |                  |
| AKIN GUMP STRAUSS HAUER & FELD L.L.P.<br>ONE COMMERCE SQUARE<br>2005 MARKET STREET, SUITE 2200<br>PHILADELPHIA, PA 19103-7013 |             |                      | PENG, CHARLIE YU    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2883                |                  |

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/620,540

Applicant(s)

NORLAND, ERIC

AK

Examiner

Charlie Peng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☒ Claim(s) 2, 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/28/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

**DETAILED ACTION*****Drawings***

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

1. Claim 2 is objected to because of the following informalities: it is not clear to the examiner what a range of "about 4 mm to about 5 mm" covers practically. It is suggest that the applicant change the range to "length of  $\underline{x}$  mm  $\pm$   $\underline{y}$  mm" or the like.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 10 is rejected under 35 U.S.C. §102(b) as being anticipated by Horwitz et al. Horwitz et al. teach a base plate (108) having an opening (not numbered, see Fig. 5 or Fig. 7) mounted to a slotted receptor plate (44) of a microscope. Horwitz et al. teach an aperture plate having an aperture (112, Fig. 6) that locates in the center of the opening of the base plate. Horwitz et al. teach a pair of threaded holes (126, 128) that receive fasteners used to hold an optical fiber connector (101) securely on the aperture plate.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1, 5, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,412,987 to Horwitz et al. Horwitz et al. teach a base plate (108) having an opening (not numbered, see Fig. 5 or Fig. 7) mounted to a slotted receptor plate (44) of a microscope. Horwitz et al. teach an aperture plate having an aperture (112, Fig. 6) that locates in the center of the opening of the base plate. Horwitz et al. do not teach a pair of guide pins included on the aperture plate. Horwitz et al. teach a pair of cylindrical fasteners (114), parallel to each other and perpendicular to a upper surface of the aperture plate, used to

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hold an optical fiber connector (101) securely on the aperture plate in threaded holes (126, 128). The fasteners are not permanent parts of the aperture plate, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to integrate them on the aperture plate since it has been held that "the use of a one piece construction instead of the structure disclosed in the prior art would be merely a matter of obvious engineering choice." In re Larson, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965) The motivation can be to reduce the number of working part or to reduce the overall cost of manufacturing the fixture.

4. Claims 3, 4, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,412,987 to Horwitz et al. Horwitz et al. disclose the claimed invention except for the material of choice in making the base plate, the aperture plate, and the pins. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. ( In re Leshin, 125 USPQ 416) It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a material having properties best fitted for this application. The motivation of using a material such as carbide or stainless steel can be to extend overall lifetime of the fixture because such materials are more wear-resistant than plastic or wood.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,412,987 to Horwitz et al. Horwitz et al. teach the claimed invention except for a predetermined angular offset of the guide pins. However, those with

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ordinary skill in the art know that 8 degrees is the accepted angular connector endface offset angle used in high performance optical fiber connectors to minimize the effects of back-reflection. Since the connectors themselves cannot be easily altered during examination, it would have been obvious to offset the effects of the angle by tilting the guide pins so that a microscope can still focus on the ends of said optical fiber connector.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,412,987 to Horwitz et al in view of U.S.P.G.Pub 2004/0045509 to Or et al. Horwitz discloses the claimed invention except for the relief cut into a middle portion of the guide pins. Or et al. teach a relief region (236) formed on a shaft of a lift pin that moves through a guide hole (118). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to create a relief portion on the guide pin. This combination reduces overall contacting areas and friction forces between the pin and the hole and makes insertion and removal of the pins an easier process.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,412,987 to Horwitz et al. as applied to claim 1. Claim 12 teaches the first two parts of method by which the apparatus disclosed in claim 1 is operated. The method is inherent to the apparatus and also considered unpatentable. In addition, it would have been obvious for a person with ordinary skills in the art at the time the invention was made to operate the microscope to obtain dimensional characteristics of the optical fiber connector, since, in the

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applicant's own words, such an operation is "conventional in the art of multi-fiber optical connectors, and are obtained in manner well-known in the art".

### ***Allowable Subject Matter***

8. Claims 13 and 14 are objected to as being dependent upon a rejected base claim 12, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: a search in the prior art does not disclose a method of calculating an offset angle and a calibration factor of the fixture based on the offset angle similar to what the applicant has disclosed. It is this examiner's opinion that prior art taken alone or in combination does not render obvious what the applicant has claimed.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 5,731,893 to Dominique; U.S. Patent 6,215,555 to Chivers.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charlie Peng whose telephone number is (571) 272-2177. The examiner can normally be reached on 8:30 am - 5 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on (571) 272-2415. The fax

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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CYP

  
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